

to the prosecution and penalties which would, but for said guaranty, have attached to the shipper.

The information charged that the article was adulterated in that it consisted in part of a filthy and decomposed vegetable substance, owing in part to the presence therein of worm excreta.

On October 4, 1933, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$5.

M. L. WILSON, *Acting Secretary of Agriculture.*

21670. Misbranding of oil. U. S. v. 32 Cans of Oil. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29888. Sample no. 34895-A.)

Sample cans of oil taken from the shipment involved in this case were found to contain less than 1 gallon, the labeled volume.

On February 25, 1933, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 32 cans of oil at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about February 6, 1933, by the Italian Food Products Corporation of America, from Trenton, N.J., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Olio Doppia Stella La Doppia * * * Double Star Brand * * * Cooking and Table Oil * * * Net Contents One Gallon."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Net Contents One Gallon", was false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On October 5, 1933, no defense to the charges in the libel having been interposed by the claimant, the Italian Food Products Corporation of America, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

21671. Adulteration and misbranding of butter. U. S. v. Casper Ardis Tooke, J. Edward Reynolds, and Charles Emery Tooke (Ruston Creamery). Pleas of nolo contendere. Sentence suspended. (F. & D. no. 29458. I.S. no. 37446.)

This case was based on an interstate shipment of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter established by Congress. Sample packages taken from the shipment were also found to be short weight.

On October 27, 1933, the United States attorney for the Western District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Casper Ardis Tooke, J. Edward Reynolds, and Charles Emery Tooke, copartners, trading as the Ruston Creamery, Ruston, La., alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about August 14, 1931, from the State of Louisiana into the State of Arkansas, of a quantity of butter that was adulterated and misbranded. The article was labeled in part: (Package) "Jersey Cream Brand Butter * * * Made By Ruston Creamery Ruston, La. Pure Creamery Butter One Pound Net Weight", (wrapper on cube) "Fresh Creamery Butter 4 Ounces Net Weight."

It was alleged in the information that the article was adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat as prescribed by the act of March 4, 1923.

Misbranding was alleged for the reason that the statements, "Butter", "One Pound Net Weight", "4 Ounces Net Weight", borne on the labels, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statements represented that the article was butter, a product which should contain not less than 80 percent by weight of milk fat, that the packages each contained 1 pound net, and that the cubes each contained 4 ounces net, whereas the article was not butter, since it contained less than 80 percent by weight of milk fat, the packages contained less than 1 pound, and the cubes contained less

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